

## HOUSE BILL NO. 133

INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PUBLIC EMPLOYEE OF A STATE, CITY, COUNTY, SCHOOL DISTRICT, OR OTHER PUBLIC JURISDICTION TO GRANT UNUSED SICK LEAVE TO THE EMPLOYEE'S SPOUSE IF THE SPOUSE IS ALSO A PUBLIC EMPLOYEE; AND AMENDING SECTION 2-18-618, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Sick leave grant to spouse -- restrictions -- rulemaking.** (1) An

employee of an agency, including a school district, may, upon termination of service, grant to the employee's spouse all or a portion of the employee's unused sick leave hours if the employee's spouse is also an employee of an agency. If an agency employee grants unused sick leave as provided in this section, the employee may not receive any compensation, payment, or other credit for the amount of the unused sick leave granted.

(2) An agency employee who receives a sick leave grant from a spouse pursuant to this section is not entitled to a lump-sum payment under 2-18-618(6) or to any other credit or compensation for the granted sick leave, except for use as sick leave.

(3) The department of administration may adopt rules to implement this section as it applies to state employees. The appropriate governing body of any other agency may adopt local policies or rules to implement this section as it applies to the agency's employees.

**Section 2.** Section 2-18-618, MCA, is amended to read:

**"2-18-618. Sick leave.** (1) A permanent full-time employee earns sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year. Sick leave credits must be credited at the end of each pay period. Sick leave credits are earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

(2) An employee may not accrue sick leave credits while in a leave-without-pay status.

(3) Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying period.

(4) Full-time temporary and seasonal employees are entitled to sick leave benefits ~~provided~~ if they work the qualifying period.

(5) A short-term worker may not earn sick leave credits.

(6) ~~An~~ Except as provided in [section 1], an employee who terminates employment with the agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's salary or wage at the time the employee terminates employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment is the responsibility of the agency in which the sick leave accrues. However, an employee does not forfeit any sick leave rights or benefits accrued prior to July 1, 1971. However, when an employee transfers between agencies within the same jurisdiction, the employee is not entitled to a lump-sum payment. In a transfer between agencies, the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

(7) An employee who receives a lump-sum payment pursuant to this section and who is again employed by any agency may not be credited with sick leave for which the employee has previously been compensated.

(8) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section.

(9) An employee may contribute any portion of the employee's accumulated sick leave to a nonrefundable sick leave fund for state employees and becomes eligible to draw upon the fund if an extensive illness or accident exhausts the employee's accumulated sick leave. The department of administration shall, in consultation with the state employee group benefits advisory council, provided for in 2-15-1016, administer the sick leave fund and adopt rules to implement this subsection.

(10) A local government may establish and administer through local rule a sick leave fund into which its employees may contribute a portion of their accumulated sick leave."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 2, chapter 18, part 6, and the provisions of Title 2, chapter 18, part 6, apply to  
2 [section 1].

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